


82D CONGRESS 2d Session }	SENATE	{ EXECUTIVE REPORT No. 2
<p>JAPANESE PEACE TREATY AND OTHER TREATIES RELATING TO SECURITY IN THE PACIFIC</p> <hr/> <p>REPORT OF THE COMMITTEE ON FOREIGN RELATIONS ON EXECUTIVES A, B, C, AND D</p> <p>EIGHTY-SECOND CONGRESS SECOND SESSION</p>  <p>UNITED STATES GOVERNMENT PRINTING OFFICE WASHINGTON : 1952</p>		

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RELATING TO SECURITY IN THE PACIFIC

THURSDAY, FEBRUARY 14, 1952.—Ordered to be printed with illustrations

Mr. CONNALLY, from the Committee on Foreign Relations, submitted
the following

REPORT

[To accompany Executives A, B, C, and D, Eighty-second Congress, second
session]

The Committee on Foreign Relations, to whom was referred the treaty of peace with Japan (Executive A, 82d Cong., 2d sess.), signed at San Francisco on September 8, 1951; the mutual defense treaty between the United States and the Republic of the Philippines (Executive B, 82d Cong., 2d sess.), signed at Washington on August 30, 1951; the security treaty between Australia, New Zealand, and the United States of America (Executive C, 82d Cong., 2d sess.), signed at San Francisco on September 1, 1951; and the security treaty between the United States of America and Japan (Executive D, 82d Cong., 2d sess.), signed at San Francisco on September 8, 1951, unanimously reports the treaties to the Senate and recommends that its advice and consent to ratification be given at an early date.

MAIN PURPOSES OF THE TREATIES

The Japanese Peace Treaty has as its principal purposes the termination of the state of war in the Far East and the restoration of Japan to the status of an independent, sovereign nation. The treaty contains provisions for such matters as security and territorial arrangements, trade and commerce, reparations, and property rights.

Accompanying the peace treaty are three collateral pacts which provide collective security arrangements for the Pacific. The first mutual defense treaty is between the United States and the Philippine Republic, a second deals with security measures between the United States and Australia and New Zealand, and the third is between the United States and Japan. These three pacts constitute an integral part of the peace settlement in the Far East.

A. THE SETTING

1. *Background*

Since the end of fighting in World War II, international tensions have mounted, with the result that peacemaking has become extremely difficult, if not impossible. In some cases, such as the abortive discussions relating to the treaties with Germany and Austria, the Soviet Union has deliberately blocked and sabotaged every major effort to bring about a settlement. The peace treaties with the former allies of Nazi Germany—Bulgaria, Finland, Italy, Hungary, and Rumania—were concluded after long and laborious negotiations. Since then the U. S. S. R. has entered upon a period of complete noncooperation. It is against this background that negotiations for a peace with Japan have been carried on.

Great changes have taken place in the Pacific area since Japan signed the instrument of surrender on the battleship *Missouri*. In 1945 some of the major problems of the Allied Powers with respect to Japan were to complete the surrender of Japan's armies, take over control of former Japanese overseas possessions, liberate areas overrun by the Japanese during the war, generally restore order, and encourage the development of democratic principles in Japan.

These original tasks have been largely accomplished during the last 6 years, but new issues have arisen, principally growing out of the surge of new-found nationalism in the area which has been coupled with an urge for self-expression and independence.

The liquidation of colonial empires in the Far East has been accompanied by the emergence of new states, the Republic of Korea, the Philippines, Indonesia, Ceylon, India, and Pakistan. Behind the scenes in these countries, and even in the areas where western control still exists, such as in the Associated States of Indochina and Malaya, Soviet imperialism cloaked in the garb of national communism has been exploiting the generally unsettled economic and social conditions which follow war and the awakening of nationalism. The result is confusion and unrest in which aggression, subversion, and sabotage thrive. The Chinese Communist regime of Peiping is the main disturbing element in this regard. A free, prosperous, and democratic Japan could exert an important stabilizing influence in the Far East.

Japan occupies a strategic position in the Far East; it has a large, energetic, and skilled population; it is the only industrial nation in the Far East; and it lies athwart the American defense line in the Pacific.

The committee believes that the occupation of Japan, under United States leadership, has been successful. As a result, Japan has emerged from her defeated and war-torn status to that of a nation slowly but steadily on its way to becoming self-reliant and a force for peace. Recognizing the dangers inherent in prolonged occupation, in June 1950, General MacArthur stated that—

historically, military occupations have a maximum utility of from 3 to 5 years. Thereafter the occupation assumes the character of "colonialism," the occupation forces assume the complexion of entrenched power, and the people under occupation become restive * * *

Under these circumstances, and in spite of the almost certain obstructionism of the Soviet Union, the United States initiated the discussions for a treaty of peace with Japan over a year ago.

2. Negotiation of the treaties

The United States was given the sole responsibility of appointing a supreme commander for all the Allied Powers and directing the occupation of Japan. An obligation to bring the occupation to a timely end also fell upon the United States. To this end, the United States as early as 1947 made overtures for a peace treaty to be considered in the Far Eastern Commission. Persistent opposition from the Soviet Union, partly on the grounds that only the Council of Foreign Ministers, where the Soviet Union exercises a veto, should have jurisdiction over negotiations, successfully blocked all efforts to negotiate a treaty until the fall of 1950. At that time, the United States entered into conversations with former Allied Powers outside the Soviet orbit for the purpose of determining if, in fact, a treaty could be concluded. Frequent consultations took place between the interested delegations during the session of the United Nations General Assembly in New York in 1950.

Representatives of the British Commonwealth worked together to determine their individual and collective position on the basic principles of the treaty, while a mission dispatched by the President of the United States visited the capital cities of the 10 countries most directly concerned for an on-the-spot exchange of views. All recognized the importance of making peace promptly, and agreement was reached on many of the principal objectives. On January 11, 1951, the President designated Mr. John Foster Dulles as his special representative, with the personal rank of Ambassador, to conduct on behalf of the United States such further discussions and negotiations as would be necessary to bring to an eventual successful conclusion a Japanese peace settlement. The United States drew up the first draft of a treaty, embodying these objectives in March 1951, and this was circulated among members of the Far Eastern Commission and other nations that had indicated their interest, including some of Latin America. In all, there was a total of 20.

An outgrowth of the conferences among the members of the British Commonwealth was a draft treaty prepared by the United Kingdom. In June, the two drafts were combined in a text jointly agreed upon by the United States and the United Kingdom and shortly thereafter circulated among the Allied Powers including the U. S. S. R. The middle of August was set as the deadline for incorporating changes.

Meanwhile, an exchange of treaty drafts and memoranda between the United States and the U. S. S. R. had formed an integral part of the negotiating process and, in addition, a number of consultations were held with the Soviet official, Jacob Malik, which subsequently, however, were broken off by the Soviet Union.

The United States delegation to the Japanese Peace Conference held in San Francisco last September included a group of Senators and Congressmen. Senators Connally and Wiley were named as delegates for each of the four treaties. Alternate delegates for the Japanese Peace Treaty were Senators John J. Sparkman, H. Alexander Smith, Walter F. George, and Bourke B. Hickenlooper, and Representatives James P. Richards and Robert B. Chipperfield. Alternate delegates for the security treaties with the Philippines and with Australia and New Zealand were Senators John J. Sparkman, H. Alexander Smith, Walter F. George, and Bourke B. Hickenlooper, and Representatives Abraham A. Ribicoff and Walter H. Judd. Alternate

delegates for the security treaty with Japan were Senators Richard B. Russell, Styles Bridges, John J. Sparkman, and H. Alexander Smith, and Representatives Overton Brooks and Dewey Short. Senator Pat McCarran and Representatives Karl Stefan and John J. Rooney served as observers.

The committee wishes to express its appreciation for the cooperative spirit in which the treaties were negotiated by the executive branch of the Government. Rarely, if ever, have committee members seen such legislative-executive teamwork as that which characterized negotiation of the treaties. The committee particularly desires to commend Ambassador Dulles for his outstanding contribution to the cause of world peace and bipartisan consultation.

Eleven months of exhaustive effort by the Allied Powers resulted in a treaty which manifested their desire for a just and lasting peace, and which manifested also a subordination of individual interests to the common good.

3. Committee action

January 12, 1951, marked the beginning of a series of meetings, nine in all, between Ambassador Dulles and members of the consultative Subcommittee on Far Eastern Affairs of the Foreign Relations Committee. The meetings continued at frequent intervals throughout the spring and summer, with Ambassador Dulles keeping the subcommittee currently informed of the progress of his negotiations with the Japanese and with the former Allied Powers, until the conclusion and signature of the peace treaty and related security pacts at San Francisco in September. Moreover, on several occasions, Ambassador Dulles discussed with the full committee specific problems that arose during the process of negotiations. Committee suggestions on these problems were instrumental in determining the final text of the treaties.

Upon the reconvening of the Congress after the fall adjournment, President Truman, on January 10, 1952, submitted the treaties with his recommendation that the Senate give them "early favorable consideration."

As a consequence, public hearings began on January 21, with statements by Secretary of State Dean Acheson, Gen. Omar Bradley, Chairman, Joint Chiefs of Staff, and Ambassador Dulles. Ambassador Dulles returned on the following day to answer questions of committee members. Hearings continued on January 23 and 25, with private witnesses both in opposition to and support of the treaties. Among those offering testimony were representatives of various organizations as well as individuals expressing their own views. In addition, a number of statements were filed with the committee for the record.

At its executive session on February 5, the committee, by a vote of 13 to 0, agreed to report all the treaties favorably to the Senate. At that time committee members approved an interpretative statement making clear the position of the Senate with respect to the Yalta agreement and the territorial provisions of the Japanese Peace Treaty. The unanimous vote which the committee gave the four treaties reflected the close cooperation which took place between the committee and the executive branch throughout the negotiations.

JAPANESE PEACE TREATY AND OTHER TREATIES

4. United States aid to Japan

Beginning in 1946, the Congress each year has voted funds to combat disease and unrest in the areas occupied by the United States military forces and to help reconstruct the economies of the countries involved. Part of these funds have been allocated to Japan in the amounts given in the following table and for the broad general purposes indicated. As the table below indicates the United States has given in the neighborhood of \$2 billion in total, or an average of over \$300 million a year to help Japan with the deficit under which her economy has been operating.

The figures are as follows:

U. S. GARIOA ¹ aid to Japan, United States fiscal years 1946 to 1951, inclusive

[Millions]

Fiscal year	Economic aid	Reorientation program	Administrative costs	Total
1946.....	² \$101.7			\$101.7
1947 ³	278.3	\$1.2	\$12.2	291.7
1948 ³	337.7	.7	16.0	354.4
1949 ³	506.8	3.7	19.2	529.7
1950 ⁴	415.9	3.5	16.4	435.8
1951 ⁵	176.7	4.0	11.4	192.1
Total.....	1,817.1	13.1	75.2	1,905.4

¹ Government and relief in occupied areas.

² Department of Army funds used to procure emergency food supplies for Japan; not specified as a "GARIOA" appropriation; partially estimated.

³ Expenditures (final).

⁴ Obligations as of Oct. 31, 1951.

⁵ Obligations as of Dec. 31, 1951.

NOTE.—The above data do not include diverted military stocks or military surplus supplies released to the Japanese. A financial settlement has been made for certain of these materials and it is anticipated that a settlement covering the remainder will be negotiated with the Japanese. The fiscal year 1952 GARIOA appropriation did not include funds for economic aid for Japan but did include approximately \$7 million for the reorientation program in Japan and the administrative costs related to the occupation of Japan.

5. Complementary agreements to be negotiated

Unlike traditional treaties of peace—which provide for the settlement of the chief areas of dispute between the contracting parties—the Japanese Peace Treaty leaves a number of important subjects for future negotiation. The subjects are chiefly of an economic nature, and are discussed in section 11 (Economic Provisions) of this report, covering particularly commercial, maritime, fishing, civil aviation, claims, and related matters. In addition, it has been necessary for the United States and Japan to reach an administrative agreement with respect to the disposition of United States troops in Japan under the security treaty. It was agreed by the participating parties that the Japanese Treaty should be primarily an instrument for the termination of war and for the restoration of Japanese sovereignty. The committee is pleased to note that the executive branch of the Government promptly started negotiations on the important subjects referred to above. It understands that an agreement relative to fishing between Canada, the United States, and Japan has already been drafted and initialed and is ready for signature as soon as Japan regains sovereign authority to make treaties. It will also be noted in section 22 (Security Treaty Between the United States and Japan) below, that satisfactory

progress is being made on the administrative agreement with Japan. The committee hopes the complementary pacts with Japan will be speedily concluded.

B. THE TREATY OF PEACE WITH JAPAN

6. *Nature of the treaty*

Perhaps the most notable aspect of this treaty is that it is neither one of vengeance nor does it conform to the general pattern of postwar treaties normally imposed by the victorious upon the vanquished. It is a broad statesmanlike document which is remarkable for the self-restraint and good will of the victorious powers evidenced therein. The treaty takes into account the great culture and tradition of Japan. Furthermore it gives consideration to Japanese dignity and self-respect. The treaty is one in which Japan is given the opportunity to achieve peace and freedom while in turn it agrees to live in peace with others in a spirit of mutual respect.

7. *Brief summary of terms of Japanese Peace Treaty*

Preamble.—The preamble proclaims that the signatory powers conclude the treaty as sovereign equals; it records that Japan intends to apply for membership in the United Nations, to conform to the principles of the Charter, to strive to realize the objectives of the Declaration of Human Rights made by the United Nations General Assembly, and with respect to trade and commerce, to conform to internationally accepted fair practices.

Chapter I. State of war terminated.—Article 1 formally ends the war between Japan and the Allies and recognizes full sovereignty of the Japanese people over the Japanese home islands.

Chapter II. Territorial provisions. (See sec. 9.)—Japan renounces all title to the territories the Potsdam Conference announced were to be taken from her, namely, Korea, Formosa, the Pescadores, the Kurile Islands, South Sakhalin, the Japanese-mandated islands, Antarctica, the Spratly Islands, and the Paracel Islands. Japan agrees to concur in any United States proposal for the placing of the following islands under United Nations trusteeship with the United States as the administering power: The Nansei Shoto, south of 29° north latitude, including the Ryukyu and Daito Islands; Nanpo Shoto, south of Sofu Gan, including the Bonin Islands, Rosario Island, and Volcano Islands; and Parece Vela and Marcus Island. Japanese property, the property and claims of its nationals in the ceded areas, and other property dispositions are to be the subject of special arrangements. Disposition of Japanese property under occupation directives is recognized as valid, and Japanese cables connecting the homeland with the ceded territory are to be divided between the Japanese and the territory in question.

Chapter III. Security. (See sec. 10.)—Japan agrees to live peaceably and in conformity with the principles of the United Nations Charter, and to settle its disputes with other states by amicable means. In accordance with article 51 of the United Nations Charter, this promise is not construed as depriving Japan of the right of individual and collective self-defense. Occupation forces are to be withdrawn 90 days after the treaty comes into effect, and all Japanese property supplied to the occupying powers for which compensation has not been made shall be returned to Japan within the same 90 days. How-

ever, foreign troops may be stationed in Japan under appropriate bilateral and multilateral agreements. All Japanese prisoners not yet freed are to be returned to their homes.

Chapter IV. Political and economic clauses. (See sec. 11.)—In this chapter arrangements are made for the reentry into force of certain of Japan's prewar treaties and conventions. The treaty itself is based on the principle that Japan's economy should be unrestricted. Agreements dealing with commercial, fishing on the high seas, and civil air transportation problems are to be negotiated and are not spelled out in the treaty. Pending the negotiation of these various treaties the Allies are entitled to receive most-favored-nation treatment on the basis of reciprocal privileges granted to Japan over a 4-year period.

Chapter V. Reparations, claims, and property. (See sec. 12.)—This chapter unequivocally recognizes that Japan is obligated to pay reparations for the damage and suffering it caused during the war. However, because of its limited resources, Japan is required to apply to reparations only those assets it has in surplus, namely, excess labor and unused plant facilities for the processing of raw materials. The seizure by the Allied Powers of Japanese property within their jurisdictions is validated, and Allied property confiscated in Japan is to be returned or compensation made therefor. Japanese property in neutral countries shall be turned over to the International Red Cross for the benefit of the families of former prisoners of war. Korea is recognized as independent by Japan and entitled to the Japanese property in that country. China is given the right to a treaty of peace with Japan on the same terms as the present treaty. China is also given the full benefits of the article covering reparations payments.

Chapter VI. Settlement of disputes.—Disputes over the interpretation and execution of the treaty are to be referred to the International Court of Justice.

Chapter VII. Ratification, protocol, and final clauses.—The treaty shall come into effect after Japan, and a majority of 11 specified states, including the United States, have deposited their ratifications. This procedure is outlined further below.

8. When the treaty takes effect

Article 23 provides that the treaty shall come into force when the instruments of ratification of Japan and of a majority of the following states including the United States have deposited their ratifications: Australia, Canada, Ceylon, France, Indonesia, Kingdom of the Netherlands, New Zealand, Pakistan, the Philippines, Great Britain, and the United States. The treaty shall be in force for each subsequent ratifying state, from the date of the deposit of its ratification.

In the period before the treaty comes into force, the United States, as the principal occupying nation, will hold a special position in Japan. After ratifications are complete, however, all Allied Powers will stand on a footing of equality. The occupying forces of the Allied Powers are to be withdrawn within 90 days under the terms of article 8. That article also provides the basis for the stationing or retention of foreign armed forces on Japanese territory as the consequence of bilateral or multilateral agreements. Finally (see sec. 5), the supplementary agreements noted elsewhere in this report will each contain their own effective dates.

9. Territorial provisions

Chapter II makes provision for the territorial arrangements between Japan and the Allied Powers. Japan surrenders sovereignty over the territory which representatives of the great powers at the Potsdam Conference agreed should be taken from it. Article 8 of the proclamation defining the terms of the Japanese surrender adopted at Potsdam on July 26, 1945, states:

The terms of the Cairo declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku, and such minor islands as we determine.

Article 2 of the peace treaty states, in effect, that Japan surrenders all rights, claims, and title to all those former Japanese territories which are not a part of the four main home islands, to wit, Korea, Formosa, the Pescadores, Kurile Islands, that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 1905, the islands it held under the League of Nations Mandate System, any part of the Antarctic area, the Spratly Islands, and Paracel Islands. It is important to remember that article 2 is a renunciatory article and makes no provision for the power or powers which are to succeed Japan in the possession of and sovereignty over the ceded territory.

During the negotiation of the treaty some of the Allied Powers expressed the view that article 2 of the treaty should not only relieve Japan of its sovereignty over the territories in question but should indicate specifically what disposition was to be made of each of them. The committee believes, however, that this would have been an unwise course to pursue. It might have raised differences among the Allies which would have complicated and prolonged the conclusion of the peace. Under the circumstances it seems far better to have the treaty enter into force now, leaving to the future the final disposition of such areas as South Sakhalin, and the Kuriles.

Committee interpretation of article 2.—Some witnesses before the committee complained that the peace treaty, in leaving the future status of South Sakhalin and the Kuriles uncertain, in effect gives validity to the Yalta agreement that sovereignty over these areas should pass to the Soviet Union. The committee does not subscribe to this thesis, even though South Sakhalin and the Kuriles are now under Russian occupation. The peace treaty neither affirms nor denies the validity of Yalta in this regard. Certainly it does not in any way imply recognition of Russian sovereignty over the territories in question.

In this connection, it should be noted that the Soviet Union is not an original signatory to the treaty nor can it now accede to the treaty. It is explicit in the treaty (art. 25) that it does "not confer any rights, titles or benefits" upon any state which did not sign the treaty, and that the right, title, and interest of Japan is not diminished or prejudiced in favor of such a nonsignatory. Consequently the Soviet Union cannot claim any rights under the treaty. Nevertheless, in order to avoid any doubt or confusion, the committee agreed that ratification by the United States should be made subject to the following statement:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the treaty of peace with Japan, signed at San Francisco on September 8, 1951. As part of such advice and consent the

Senate states that nothing the treaty contains is deemed to diminish or prejudice, in favor of the Soviet Union, the right, title, and interest of Japan, or the Allied Powers as defined in said treaty, in and to South Sakhalin and its adjacent islands, the Kurile Islands, the Habomai Islands, the island of Shikotan, or any other territory, rights, or interests possessed by Japan on December 7, 1941; or to confer any right, title, or benefit therein or thereto on the Soviet Union; and also that nothing in the said treaty, or the advice and consent of the Senate to the ratification thereof, implies recognition on the part of the United States of the provision in favor of the Soviet Union contained in the so-called Yalta agreement regarding Japan of February 11, 1945.

There remains some question as to what the Kurile Islands include, especially whether they include the Habomai Islands and Shikotan. The latter are now occupied by troops of the Soviet Union. It is the view of the United States Government that these islands are properly a part of Hokkaido and that Japan is entitled to sovereignty over them.

Some question also arose during the hearings as to the disposition of the Ryukyus which includes the important United States military base at Okinawa. It was agreed in article 3 that Japan would concur with any recommendation which the United States might make for a future United Nations trusteeship agreement, with the United States as the sole administering authority over Nansei Shoto, south of 29° north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto, south of Sofu Gan (including the Bonin Islands, Rosario Island, and the Volcano Islands), and Parece Vela and Marcus Island. Pending the establishment of such a trusteeship the United States will continue to exercise jurisdiction over these territories and their inhabitants.

Some question has also been raised as to the ability of Japan to support its 80,000,000 people if it is confined in the future to the four main homeland islands. The State Department pointed out the following:

* * * A clue to the correct answer is the fact that, when Japan had a vast colonial empire into which the Japanese could freely emigrate, few did so * * * Japanese, like other people, prefer to live at home. So far as emigration is concerned, the territorial clauses of the treaty do not establish restraints greater than those which 98 percent of the Japanese people voluntarily put upon themselves.

It is well to keep in mind, in this connection, that the surrender terms promised the Japanese "access to raw materials" and "participation in world trade relations." These promises can be realized only so long as the parties to the treaty make them possible. The Japanese people are industrious, inventive, and self-reliant. The conditions of the present territorial status of Japan are, the State Department assured the committee, "* * * no cause for alarm."

10. Security provisions

Chapter III of the treaty deals with the general problem of security. Under article 5 Japan agrees to abide by the principles incorporated in article 2 of the United Nations Charter: to settle its international disputes by peaceful means; to refrain from the threat or use of force in international relations; and to render every assistance to the United Nations in any action which that organization may undertake in accordance with the provisions of the Charter. While these provisions prohibit Japan from resorting to force as an instrument of national policy, they do not deprive that country of the inherent right of individual or collective self-defense as recognized in article 51 of the United Nations Charter. In article 5 of the treaty the Allied Powers

reciprocally agree to be similarly guided by article 2 of the Charter in their dealings with Japan.

Article 6 stipulates that the occupation of Japan shall end 90 days after the treaty comes into force. But granting independence to an unarmed Japan would constitute an empty gesture unless some means of protecting that independence were also assured. Consequently, this same article provides that foreign armed forces may be retained or stationed in Japanese territory pursuant to agreements which may be made between Japan and one or more of the Allied Powers. The terms are clear that such military forces as are stationed in Japan will have only such status as Japan chooses to grant them. This article is the base for the United States security arrangements with Japan as set forth in the security treaty which accompanies the Japanese Peace Treaty.

In some quarters it has been argued that Japan would not voluntarily enter into security arrangements with the United States, particularly with respect to the retention of American troops on Japanese soil. Any such arrangement, the argument runs, would not be in accordance with the wishes of the Japanese people. The executive branch sampled public opinion widely in Japan and found that a large majority of the Japanese people favored a continuing security relationship with the United States. The vote in the Japanese Diet on both the peace treaty and the security pact clearly reflect this view. The committee is satisfied with these assurances.

In recommending ratification of the treaty the State Department points out that in the world of 1952 it would be a fraud to grant sovereignty to Japan accompanied only with the token right of individual self-defense, as was proposed by some of the negotiating powers. The security of the Pacific area is being developed on a collective basis, and any nation which would try to deny Japan the right to that collective security would be a "conniver at aggression." The security provisions of the peace treaty are consistent with the security arrangements now being built in the Pacific region, with the dignity and self-respect of the Japanese, with the interests of the United Nations, and with the objectives of Allied far-eastern policy.

The committee was interested in the question of any possible limitations on the Japanese to engage in atomic research or in the construction of atomic installations. The peace treaty does not prohibit or even refer to such research. On questioning by the committee, Ambassador Dulles indicated there was no intention to place any restriction whatsoever on Japan in this respect. Some committee members expressed the view that any such restriction would be impractical if not unwise as an interference with Japanese sovereignty. Obviously, however, the United States would be very much concerned if such research turned in the direction of weapons of destruction.

11. Economic provisions

Like the rest of the treaty, chapter IV, which deals with trade and commerce, contains generous provisions with respect to Japan. No restrictions are placed upon its economy. No limitations are imposed upon its right to trade with other nations. Japan is thus given full opportunity to maintain its economy on a stable basis.

In chapter IV of the treaty it is agreed that each Allied Power will notify Japan of the prewar bilateral treaties or conventions with Japan

which the former wishes to continue. It is also agreed that most-favored-nation treatment should be available to the Allied Powers for a 4-year period on the basis that similar treatment is accorded to Japan.

Japan renounces several advantages which it had acquired prior to September 1, 1939. Among these are rights under the Montreux convention with respect to the Turkish Straits, rights as a creditor of Germany, and rights under the Bank for International Settlements. These are rights which accrued to Japan as a victorious power in World War I. In addition, Japan renounces any special interests and rights in China, including such benefits and privileges as were conferred upon it by the protocol terminating the Boxer Rebellion, signed at Peiping September 7, 1901.

An important segment of Japan's economy is fishing on the high seas, an occupation pursued by many Japanese. Prior to the Second World War a number of controversies over fishing rights arose between Japan and other fishing countries, especially the United States and Canada. Under article 9 of the peace treaty Japan agrees to negotiate with the interested Allied Powers bilateral and multilateral agreements governing fishing and the conservation of fish in the high seas.

Another economic problem dealt with in chapter IV of the treaty is trade. In addition to the most-favored-nation treatment referred to above, Japan agrees for the 4-year period mentioned to conduct its trade on an individual competitive basis and to make all external purchases and sales of Japan state enterprises, solely on a commercial basis. It also declares its readiness to enter promptly into the negotiation of treaties with the Allied Powers, placing trade, maritime and other commercial relations on a stable and friendly basis. These are important commitments, if one recalls that Japan was making substantial inroads upon British and American trade in the pre-World War II period.

Another important commitment contained in the treaty is that Japan will enter into negotiations with the Allied Powers in order to reach agreement covering civil aviation. Again in this respect Japan promises to accord the Allied Powers and their nationals most-favored-nation treatment with regard to traffic rights and privileges, and complete equality of opportunity in the operation and development of their air services.

These are liberal clauses. They promise Japan a real opportunity for economic recovery, provided it lives up to its announced intention in the preamble of conforming to internationally accepted fair practices and provided also that the Allied Powers accord to Japan in their domestic legislation the opportunities and possibilities of a reasonable trade, thus giving Japan a chance to meet its own domestic requirements.

12. Reparations and debts

One of the most complicated and difficult problems relating to the Japanese peace settlement centers about the matter of reparations. During the war Japan inflicted damages upon persons and property that ran into many billions of dollars. It is estimated that the claims held by various governments against Japan may total as much as \$100 billion. The problem confronting those who negotiated the

treaty, therefore, was to devise a formula that would make possible the settlement of some of these claims within Japan's capacity to pay while still maintaining a viable economy.

Article 14 (a) contains the unequivocal provision that Japan should pay reparations to the Allied Powers for the damage and suffering it caused during the war. At the same time article 14 (b) states that, except as otherwise provided, the Allied Powers waive all reparations and claims against Japan.

These two sections recognize the limited Japanese economic capabilities with that country's resources reduced by the treaty to those of the four home islands. They respond to the fact that Japan has been unable during the period of occupation to meet the food and raw materials requirements of its economy by about \$2 billion, which deficit the United States has made good. Obviously insistence upon the payment of reparations in any proportion commensurate with the claims of the injured countries and their nationals would wreck Japan's economy, dissipate any credit that it may possess at present, destroy the initiative of its people, and create misery and chaos in which the seeds of discontent and communism would flourish. In short, insistence upon the payment of claims for reparations in any substantial amount would be contrary to the basic purposes and policy of the free nations, the Allied Powers, and the United States in particular. It should be emphasized, however, that Japan agrees to pay such reparations as she can shoulder.

At present Japan has an industrial capacity which is not fully employed. Some of this capacity can be used to process raw materials which are possessed in abundance by several of the countries with reparations claims against Japan. Japan in addition possesses a substantial number of unemployed. These two elements combined can be utilized to make some restitution for war damages. The treaty, therefore, provides that Japan shall enter into negotiations with those Allied Powers which it occupied and damaged in order to make available the services of the Japanese people in production, salvaging, and other work. Japan can, therefore, make some small measure of restitution for the damage it has done.

The committee, while fully sympathetic with the claims of such countries as Indonesia and the Philippines, believes that the reparations provisions of the treaty are eminently fair. Past experience demonstrates that these countries stand a better chance of collecting a portion of their claims than they would if the treaty imposed reparations far beyond Japan's capacity to pay. In this connection it should be noted that where the manufacturing of raw materials is called for, they are to be supplied by the Allied Powers in question, so as not to throw any foreign-exchange burden upon Japan.

Japan also agrees that its property in neutral and ex-enemy countries shall be transferred to the International Red Cross to be used for the benefit of former prisoners of war and their families. The purpose of this provision is to distribute these funds on an equitable basis so as to make some compensation for the hardships which were suffered by individual soldiers as a result of the Japanese violations of the Geneva conventions relating to prisoners of war. The United States has indicated that because our own citizens, who suffered as prisoners of war under the Japanese, have already received some compensation out of Japanese assets, equity dictates that comparable

indemnification shall first be made to the citizens of other countries, before further compensation is made to Americans.

Allied property in Japan is to be returned and, where this cannot be done for practical reasons, compensation will be paid in blocked yen. Japanese legislation to that effect is now pending in the Diet.

13. Damage suffered by United States citizens

Witnesses, representing several types of American claimants against Japan, appeared before the committee to point out that adequate provision had not been made for the compensation of American citizens who had suffered damage and injury from Japanese actions during the war. The main examples cited were the confiscation of private bank accounts of servicemen in the Philippines and the seizure of property in China.

The committee is, of course, much concerned that just compensation be secured in deserving cases. As a result of committee interrogation, and pursuant to the study of memoranda filed by the State Department, it now appears that the total of potential claims (as noted in the section above) against Japan is in an amount well in excess of \$100 billion. This amount, of course, includes the claims of all our allies as well as our own. It would obviously be impossible for Japan to pay more than a very small fraction of such a huge amount; nor could American claimants expect preferential treatment.

In determining how to handle the problem of claims, the negotiators agreed upon the following basic principles:

1. Adequate compensation by Japan is impossible;
2. Japan should make such compensation both in form and amount as are feasible;
3. Reparations for war losses is a governmental matter to be settled between governments; and
4. It is the duty and responsibility of each government to provide such compensation for persons under its protection as that government deems fair and equitable, such compensation to be paid out of reparations that may be received from Japan or from other sources.

Because of the limited ability of Japan to pay its legitimate claims, our allies in the treaty waive their claims and those of their nationals in the same way that we do. There are, however, certain compensations provided for in the treaty. Japan agrees to negotiate with the Allied Powers to provide services—mainly by way of labor and plant facilities—wherever possible as reparations. Article 14 (a) 2 authorizes the Allied Powers to retain and use for reparation purposes Japanese public and private property subject to their jurisdiction. Article 15 returns Allied property within Japan to the owners, and article 16 transfers Japanese assets in neutral and ex-enemy countries to the International Red Cross.

These provisions do not give a direct right of return to individual claimants except in the case of those having property in Japan. As representatives of the executive branch pointed out, individual remedies must be provided elsewhere.

Japanese property vested by this country as of October 1, 1951, is approximately \$84 million. Certain debt claims of United States citizens and others are still payable under the Trading With the Enemy Act. All in all the Office of the Alien Property Custodian

has turned over \$120 million to the War Claims Commission, of which amount the latter has paid out \$52 million under the War Claims Act. This leaves a substantial amount available subject to allocation by the Congress.

In its memorandum of January 31, 1952, to the committee, the State Department said that—

Allied Powers in whose territory United States nationals sustained property losses may make such United States nationals eligible to receive such compensation as they are able to provide for war losses. It does not appear, however, that American nationals who sustained losses in the territories of any of the Allied Powers can expect to receive compensation commensurate with their losses. Accordingly, United States nationals, whose claims are not covered by the treaty provisions or by the legislation of other Allied Powers, must look for relief to the Congress of the United States.

Congress has provided that the proceeds of the liquidation of Japanese assets in the United States are to be paid into a trust fund in the United States Treasury known as the war claims fund, which is available for the payment of war claims as provided by the War Claims Act of 1948 (Public Law 896, 80th Cong., 2d sess.), as amended.

The War Claims Commission has recommended to the Congress that its powers be extended to include payment of claims resulting from damages caused by the illegal actions of enemy powers during World War II. If these recommendations are enacted into law, they will serve to meet in part, at least, some of the many and varied claims of American citizens against Japan.

14. *The peace treaty and Korea*

While the Japanese Peace Treaty intimately affects Korea in many ways, it contains only brief references to that country. The most important is found in article 2, in which Japan recognizes the independence of Korea. The most extensive is found in article 21, which states that Korea is to enjoy the benefits of articles 2, 4, 9, and 12 of the treaty. The latter provisions place Korea on a parity with the Allied Powers with regard to postwar trading, fishing, commercial, and maritime arrangements. Thus, even though Korea is not a signatory of the treaty, it is to all intents and purposes a treaty power.

Korea was acquired by Japan early in the twentieth century and was made an integral part of the Japanese Empire both politically and economically. In the Cairo declaration Korea was promised independence but when the war came to an end the arrangements for receiving the surrender of the Japanese soldiers split the country along the thirty-eighth parallel. Since then Korea has at no time been united, and at the present moment it is overrun with military forces as a result of the aggression launched upon South Korea in June 1950.

The Japanese Peace Treaty is an expression of the Allied Powers that they seek to make good their promise of freedom and independence for Korea, and that they agree to assist the United Nations in suppressing the aggression against the Republic of Korea. Japan in her commitments both in the peace treaty and in the security pact, as well as in the exchange of the Acheson-Yoshida notes, agrees to continue to assist the United Nations in its efforts to suppress aggression in that country.

Finally, Japan surrenders to the Republic of Korea the very considerable property of Japan in Korea.

15. Relation of Japan to Nationalist and Communist China

In visualizing the future role of Japan in the Far East it is, of course, important to know the intention of the Japanese Government with respect to the National Government of China and the Chinese Communist regime. In a letter written to Ambassador Dulles on December 24, 1951, Prime Minister Yoshida expressed the desire of his Government to conclude as soon as legally possible a treaty with the National Government so that normal relations could be restored between the two Governments. At the same time he outlined the various hostile acts which have been committed against Japan by the Communist regime in China and which make treaty relations with that regime impossible. The committee believes the Yoshida letter—even though it is not a formal agreement—constitutes a clear-cut statement of Japan's determination not to recognize the Communist regime under existing circumstances. Pertinent excerpts from the Prime Minister's letter (which is printed in full on p. 9 of the committee hearings) are reproduced here for the information of the Senate:

The Japanese Government desires ultimately to have a full measure of political peace and commercial intercourse with China which is Japan's close neighbor * * *

My Government is prepared as soon as legally possible to conclude with the National Government of China, if that Government so desires, a treaty which will reestablish normal relations between the two Governments in conformity with the principles set out in the multilateral treaty of peace. The terms of such bilateral treaty shall, in respect of the Republic of China, be applicable to all territories which are now, or which may hereafter be, under the control of the National Government of the Republic of China. We will promptly explore this subject with the National Government of China.

As regards the Chinese Communist regime, that regime stands actually condemned by the United Nations of being an aggressor and, in consequence, the United Nations has recommended certain measures against that regime, in which Japan is now concurring and expects to continue to concur. * * * Furthermore, the Sino-Soviet Treaty of Friendship, Alliance, and Mutual Assistance concluded in Moscow in 1950 is virtually a military alliance aimed against Japan. In fact there are many reasons to believe that the Communist regime in China is backing the Japan Communist Party in its program of seeking violently to overthrow the constitutional system and the present Government of Japan. In view of these considerations, I can assure you that the Japanese Government has no intention to conclude a bilateral treaty with the Communist regime of China.

16. Japan's trade with the Soviet bloc

Japan's controls over exports of strategic materials to the Soviet bloc are more restrictive than similar controls imposed by other nations of the free world with the exception of Canada and the United States. Although these controls were imposed initially by the Japanese Government at the direction of SCAP, responsibility for administration of the control system is being rapidly turned over to the Japanese Government. Upon the coming into force of the treaty, the determination of export-control policies will, of course, be the sole responsibility of the Japanese.

It is impossible to state definitely at this time what degree of controls on the export of strategic materials to Communist countries will be maintained by the Japanese Government in the post-treaty period. There is every reason to believe, however, that the Japanese Government will continue to cooperate with the other nations of the free world in maintaining such controls as long as the necessity for them exists. On two recent occasions Prime Minister Yoshida has expressed officially the willingness of his Government to cooperate with the free

world in this regard. In responding to the United Nations General Assembly resolution of May 18, 1951, which called for action by governments to embargo the shipments of certain military and strategic items to Communist China, the Prime Minister voluntarily replied that his Government was imposing restrictions on trade with China which met the requirements of the U. N. resolution and that in carrying out the purposes of the United Nations embargo his Government was prepared to consult on the matter with other cooperating countries. Referring to the United Nations embargo, Mr. Yoshida stated in his letter to Mr. Dulles of December 24, 1951:

As regards the Chinese Communist regime, that regime stands actually condemned by the United Nations of being an aggressor and, in consequence, the United Nations has recommended certain measures against that regime, in which Japan is now concurring and expects to continue to concur when the multilateral treaty of peace comes into force * * *

On January 17, 1952, Mr. Yoshida stated in a note to Secretary Acheson that his Government was cooperating with the United States policy with respect to export controls as set forth in Public Law 213, Eighty-second Congress (Battle Act). The Senate will recall that this act provides for the cessation of United States military, economic, and financial aid to countries which export strategic materials, arms, ammunitions, and implements of war, petroleum, and items of strategic significance to nations threatening the security of the United States. Accordingly, Japan would suffer the loss of United States aid as the result of exporting any such materials to Communist-dominated countries.

In view of these and other indications that the Japanese Government intends to cooperate with the United Nations and the United States, the committee feels that it is reasonable to assume that Japan can be relied upon to continue to cooperate with other governments in restricting exports of strategic and military goods to Communist China and other parts of the Soviet bloc after the coming into force of the peace treaty.

17. Attitude of the U. S. S. R. toward the Japanese Peace Treaty

Although the U. S. S. R. sent a delegation to the San Francisco Conference in September 1951, neither the U. S. S. R. nor any of its satellites joined with representatives of the other nations to give generous support to an instrument designed to readmit Japan to its proper place in the family of nations. It became obvious, as the conference progressed, that the Soviet delegates were intent upon doing everything possible to sabotage the conclusion of a satisfactory treaty.

Among the arguments advanced by the U. S. S. R. in opposition was the charge that the treaty does not provide for guaranties against the rebirth of militarism in Japan in such a way that a repetition of Japanese aggression would not be possible. Effective guaranties could only be assured, declared the U. S. S. R., by restrictions on the size of the various components of the Japanese armed forces.

The U. S. S. R. further took the position that the treaty should contain assurances that the territory of Japan would not be used to maintain foreign military bases. It argued that without such specific assurances the treaty does not serve the purpose of reestablishing Japan's sovereignty and, in fact, "contradicts the interests of the maintenance of peace in the Far East."

The Soviet delegate also complained of undue leniency in dealing with the subject of Japanese reparations.

With respect to territorial questions, the Soviet Union strongly urged that Formosa, the Pescadores, the Paracel Islands, and other territories wrested from China by the Japanese should be turned over to the present Communist Chinese Government. The U. S. S. R., itself, laid claim to South Sakhalin and adjacent islands, as well as to the Kurile Islands, but rejected the provisions making possible future United States trusteeship over the islands of Ryukyu, Bonin, Rosario, Volcano, Paroce Vela, Marcus, and Daito, which were severed from the Japanese empire after World War II.

The Soviet bloc repeated over and over that because the Communist Chinese Government was not represented at the Conference, the United States had proceeded in an unlawful manner to negotiate a peace settlement. The delegate from Poland later joined in making this same charge. He further asserted that the United States had acted in violation of the January 1, 1942, declaration by the United Nations, pledging each signatory government not to make a separate armistice or peace with the enemies.

The Soviet bloc leveled other vituperative charges against the treaty, some of which sound plausible on the surface. Most of these arguments were directed against the United States.

It is interesting to note that of all the 51 Allied delegations represented at the Peace Conference, those of the Soviet bloc alone failed to sign the treaty.

18. Relation of treaty to the Universal Declaration of Human Rights

During the hearings questions were raised about that part of the preamble in which Japan states the intention "to strive to realize the objectives of the Universal Declaration of Human Rights."

In the peace treaties with the European satellites of Nazi Germany, special articles guaranteeing human rights were inserted in the operating clauses of those treaties. However, it is now clear that such rights are difficult to enforce. In spite of this difficulty, it appeared desirable to record Japan's good intentions to respect human rights. Because it has no legal binding effect the preamble was deemed to be the most appropriate place for such a statement. Since almost all nations outside the Soviet bloc have accepted the universal declaration of human rights as a worthy statement of objectives, the Japanese people wished to be in the same category. It seemed only equitable to permit Japan to make the kind of statement of intent that it wanted and that other free nations have made.

The committee wishes to make clear that there is nothing in the treaty that makes human rights a matter of international contract, nor which gives any Allied nation the right to interfere in Japanese internal affairs in order to enforce such rights.

The committee also wishes to make emphatically clear that the United States in ratifying the treaty in no way undertakes any commitment with respect to human rights. The statement in the preamble is a unilateral Japanese announcement. It is not even a commitment for Japan, much less so for the United States.

19. *The question of "belligerent rights" of the Soviet Union and Communist China in Japan*

The committee explored in the hearings the following question: When the treaty of peace comes into effect, what legal obstacles, if any, will stand in the way of the Soviet Union or Communist China dispatching a military force to occupy Japan on the ground that they are still at war with Japan and that such occupation will be merely an exercise of a belligerent right?

The Department of State, in a memorandum to the committee, replied that this matter has been given thorough consideration over the past few years. The Department believes that any risk of Soviet or Red Chinese military action in Japan is neither increased nor diminished by purely legalistic considerations. If military action is taken, it will be for other than legal reasons. Of course legal pretext can always be invented to support any action which these Governments might elect to embark on.

The committee agrees with the Department that any right of unilateral occupation will not exist after the treaty comes into force. The Potsdam surrender terms of July 26, 1945, to which the Soviet Union later adhered, provided for a single "allied" occupation—not for separate and independent allied occupations—to end with the achievement of certain stated objectives described by article 7 of those surrender terms as follows:

Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

Article 12 of the Potsdam terms provides:

The occupying force of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

Clearly the Japanese Peace Treaty, having been signed by 48 Allied nations, is conclusive evidence that the objectives set forth in article 7 of the surrender terms in the Potsdam agreement have been attained. Furthermore it is equally clear that Japan now has a Government established in accordance with the freely expressed will of the Japanese people; that this Government is peacefully inclined; and that it is a responsible Government. Under such circumstances, since occupation is a collective right and the objectives of the occupation have been obtained, the withdrawal of the occupation forces of the Allies is in order.

Any effort on the part of any single power to occupy Japan in pursuit of what it might elect to describe as belligerent rights would be a unilateral action in direct violation of the Potsdam surrender terms, especially if undertaken by the Soviet Union, which adhered to the Potsdam agreement.

It is not without some bearing on this subject, that article 2 of the security treaty provides that—

During the exercise of the right referred to in article 1, Japan will not grant without the prior consent of the United States of America, any bases or any rights, powers, or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, or transit of ground, air, or naval forces to any third power.

Under these commitments Japan would be obligated to oppose any Soviet or Chinese effort of the kind described above. This would immediately bring into play the whole far-eastern security arrangement to which the United States and several other countries are now parties. Therefore not only legally are the Soviet Union and China barred from undertaking any unilateral occupation of any part of Japan, but, if they do so, that act will be open aggression of the broadest and boldest kind—an aggression which would only be undertaken if the aggressor is willing to assume the consequences of starting world war III.

C. SECURITY TREATY BETWEEN THE UNITED STATES AND JAPAN

20. *Background*

From the moment the war in the Far East came to an end the United States, as the principal occupying power, hoped to conclude satisfactory peace arrangements and withdraw our troops from Japan at the earliest practicable moment. Yet, as time went on and world conditions grew worse, it became increasingly apparent that this could not be done safely unless satisfactory provisions could be made to protect Japan against the threat of Communist aggression. If any doubt existed on this point prior to June 1950, it was dissipated by the attack upon the Republic of Korea. Clearly the complete withdrawal of American troops from disarmed Japan would leave a political and military vacuum that would seriously threaten our security interests in the Far East and constitute a real danger to world peace generally.

Responsible officials in both Japan and the United States recognized this basic principle. Early in February 1951 Ambassador Dulles pointed out that the United States would "sympathetically consider" stationing some armed forces in Japan to assist in the defense of that country if the Japanese wished it. On February 11, 1951, Prime Minister Yoshida responded affirmatively:

The Japanese Government and a preponderant majority of the Japanese people—

he said—

warmly welcome the Ambassador's invitation to a security arrangement with the United States for the protection of unarmed Japan by the stationing of United States armed forces in and about the country. We realize fully our responsibility to protect ourselves and defend our own land, and do what we can in this respect.

It was agreed that this objective could best be achieved by the conclusion of a bilateral security pact between the United States and Japan simultaneously with the conclusion of the general treaty of peace. To this end article 6 of the peace treaty provides for the withdrawal of occupation forces as soon as possible. But it also makes possible the stationing of foreign armed forces in Japanese territory—

under or in consequence of any bilateral or multilateral agreements which have been or may be made between one or more of the Allied Powers, on the one hand, and Japan on the other.

Thus the bilateral security treaty between Japan and the United States forms a natural complement to the Japanese Peace Treaty.

21. Provisions of the treaty

The preamble to the security treaty makes clear that Japan, as a sovereign nation, has a right to enter into collective security arrangements for self-defense purposes. It also emphasizes the desire of Japan that our armed forces be maintained there so as to deter armed attack upon the Japanese homeland. Meanwhile, it is expected that Japan will "increasingly assume responsibility for its own defense * * *"

Article I of the security treaty grants to the United States the right to dispose land, air, and sea forces in and about Japan. It further provides that these forces may be used not only for the security of Japan but "to contribute to the maintenance of international peace and security in the Far East * * *." In view of the role of the United States in U. N. operations in Korea, this is an important provision. It makes clear that any forces we might station in Japan would not be limited to the defense of Japan but could be used for the maintenance of peace anywhere in the Far East including, of course, U. N. police action in Korea.

Article I also provides that at the request of Japan our forces there may be used—

to put down large-scale internal riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers.

This provision recognizes the danger of indirect aggression and civil war which have been resorted to so effectively by international communism against legitimate governments in Korea, Indochina, Malaya, and elsewhere in the Far East. It should be noted that this provision relates to disturbances instigated by an outside power. It should not be assumed that our troops would be used to put down disturbances of a purely local or domestic nature. This right to act against foreign-inspired insurrection is essential to the security of United States forces in Japan and of Japan itself.

Article II provides that Japan will not grant any bases or military facilities to any third power without the prior consent of the United States. This article reflects the special relationship which exists between Japan and the United States as the principal occupying power.

Article III provides for administrative agreements between the two Governments to cover the disposition of United States Armed Forces in and about Japan. Obviously the broad grant of power laid down in the security treaty will have to be supplemented by detailed arrangements dealing with such matters as the facilities and areas to be used, the rights of the United States in the areas, transit privileges, meteorological services, criminal jurisdiction, imports, taxation, and so on.

An over-all administrative agreement between the two countries is now in process of negotiation and will probably be completed before the security treaty comes into force.

Article IV provides for the termination of the treaty whenever the two Governments agree that there exist satisfactory alternative provisions for the maintenance of peace and security in the general area of Japan. Such alternative provisions might emerge in the form of a strengthened United Nations or in some other form not clearly foreseen at present. It is apparent that the treaty constitutes only a first step in the development of collective security in the Japan area. In

any event, in spite of suggestions which have been made to the contrary, it is apparent that the treaty cannot be terminated without the consent of the United States.

22. United States commitments

The security treaty imposes no commitments or obligations upon the United States. We are not obligated to station any forces in Japan unless we decide it is in our own national interest to do so. On the other hand, the rights conferred in the treaty by Japan are very far-reaching in nature. They constitute a significant contribution on the part of Japan to the cause of the free world and to collective security.

During the hearings the question was asked as to whether any obligation flowed from the treaty for the United States to aid Japanese security by supplying such financial assistance as may be required. Ambassador Dulles replied as follows:

There is no understanding, express or implied, with reference to giving any particular economic aid or assistance to Japan. Everybody knows what the United States policy is, and it is natural that the Japanese should feel, as a partner with us, that they would not be discriminated against. But there is nothing that has been said or done which gives anyone in Japan any right to come to us and say, "You are required to continue to give us economic aid."

What we do will be determined, I take it, by what an enlightened view of our own self-interest requires. That will be a guide and the policies which the Congress lays down. Within that framework I would believe and hope that Japan, if it needed it, would be qualified to receive the kind of help which we are giving others, although Japan would never, in my opinion, need aid in the form of a grant or a gift.

23. The administrative agreement and the ratification of the peace treaty

During the hearings, committee members asked representatives of the Defense Department whether the entry into force of the peace treaty with Japan might interfere with practical military operations in Korea. General Bradley replied that the treaty might interfere with such operations unless the administrative agreement contemplated in article III of the security pact with Japan were in effect. He pointed out that the agreement, which would make the necessary arrangements for the location of our armed forces in and about Japan, was then in process of negotiation. He suggested, therefore, that it might be wise to withhold ratification of the peace treaty until the administrative agreement is concluded. The two instruments could then enter into force at the same time.

More recently the committee has been informed by the executive branch that negotiation of the administrative agreement has been proceeding satisfactorily in Tokyo. The committee believes it would be entirely appropriate, therefore, for the Senate to move ahead with the peace treaty and the related security pacts at an early date. Ratification will not occur until the President decides, with Senate consent, actually to deposit the instrument of ratification.

24. Use of Japanese facilities by U. N. forces

During the negotiations leading up to the conclusion of the peace treaty the United States Government took steps to make certain that the entry into force of the treaty would have no adverse effect upon the assistance now being given by Japan to the U. N. effort in Korea. Under article 5, Japan accepts the obligations set forth in article 2 of the U. N. Charter including the pledge---

to give the United Nations every assistance in any action it takes in accordance with the Charter * * *

While this commitment seems fairly clear, Secretary Acheson, on September 8, 1951, addressed a letter to Prime Minister Yoshida, in which he specifically raised the issue. He pointed out that Japan had rendered important assistance to the U. N. in the form of facilities and services made available to various U. N. members engaged in the Korean operation.

Since the future is unsettled—

he wrote—

and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a member or members of the U. N. are engaged in any U. N. action in the Far East after the treaty of peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members, of the forces engaged in such U. N. action * * *.

The Prime Minister's reply was completely reassuring on this point. Under date of September 8, 1951, he wrote Secretary Acheson, in part, as follows:

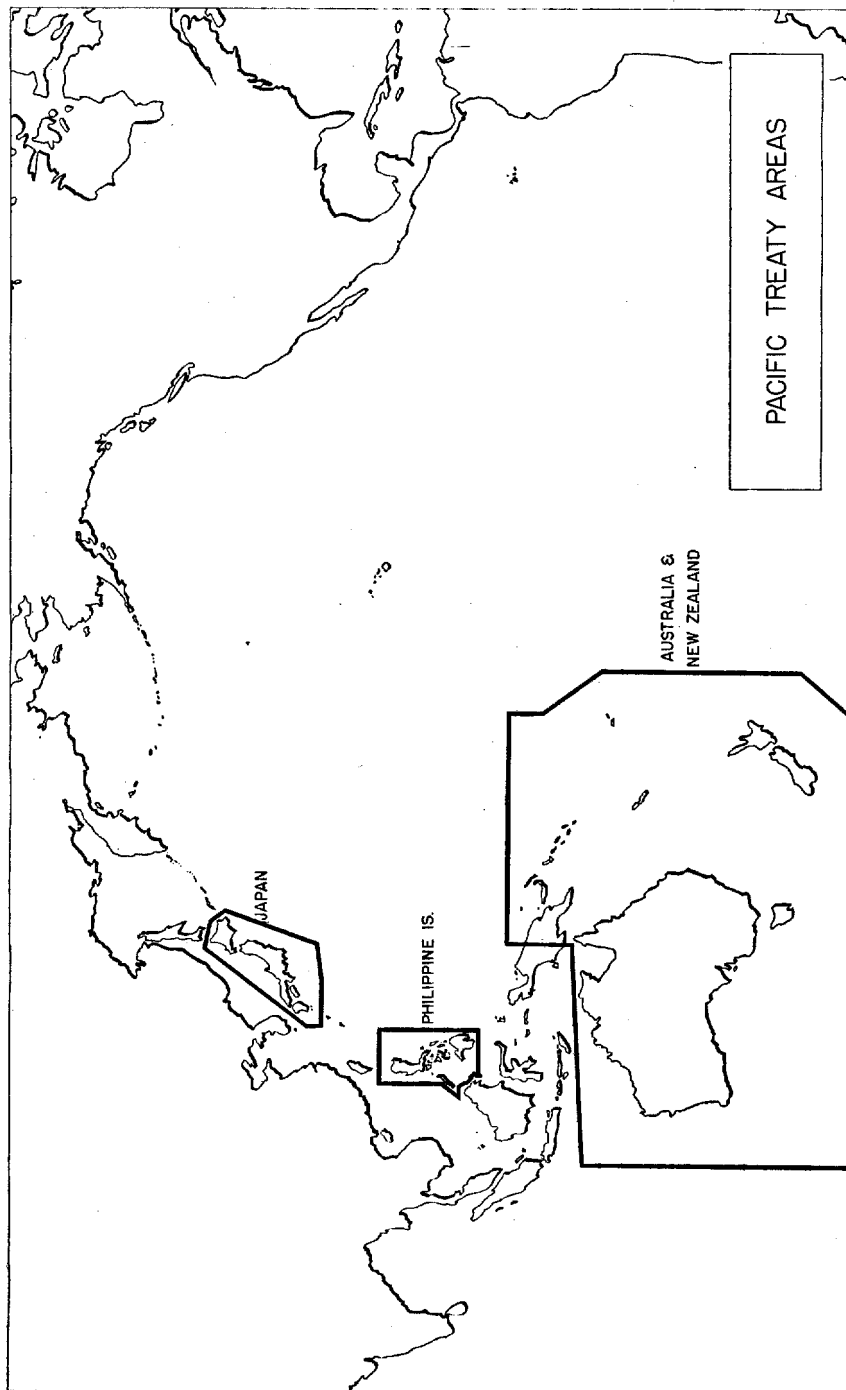
* * * I have the honor, on behalf of my Government, to confirm that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the treaty of peace comes into force, Japan will permit and facilitate the support in and about Japan, by the members or members of the forces engaged in such United Nations action, the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations member concerned.

D. SECURITY TREATY BETWEEN AUSTRALIA, NEW ZEALAND, AND THE UNITED STATES

25. Background

As has been pointed out above, one of the main objectives of the United States in the postwar era has been to strengthen the fabric of peace in the Far East and elsewhere, so as to minimize the possibility of a third world war. In Asia we have considered it essential to the cause of the free world that those ocean countries marking the western rim of the Pacific should remain free and independent. Consequently, as an integral part of the peace settlement in the Far East, and in addition to the security treaty with Japan, our Government proceeded to negotiate security pacts with Australia and New Zealand, and with the Philippines.

The desire of Australia and New Zealand to establish some sort of security relationship with the United States is understandable. As a result of World War II, these countries feared the resurgence of Japanese aggression, and they were deeply concerned about the possibility of Japanese rearmament. Their natural inclination, therefore, was to think in terms of a peace treaty that would make such eventualities impossible. They could agree to a generous treaty, imposing no restrictions upon Japanese rearmament, only if the United States would formally express concern for their security and agree to stand with them in the event of an attack. The security treaty between the United States on the one hand, and Australia and New Zealand on the other, gave these countries the assurances they needed, and at the same time served the national interests of the United States.



26. Provisions of the treaty

Like the Rio Pact and the Atlantic Pact, the security treaty with Australia and New Zealand provides for consultation and, when necessary, appropriate action. Article III calls for consultation among the three parties whenever the territorial integrity, the political independence, or the security of any of them is threatened in the Pacific. Under this article there is no obligation to take any action as a result of the consultation contemplated.

Article IV is the heart of the treaty. Under that article each of the signatories recognizes that—

an armed attack in the Pacific area on either of the parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

The committee noted that the language of article IV, which is based upon the language of the Monroe Doctrine, is more general than the specific commitments contained in the Atlantic Pact. It is believed, however, that the formula which worked so well for so many years in the Americas will serve to meet the security situation which we now confront with respect to New Zealand and Australia in the Pacific.

In view of the general language of article IV, the question naturally arises as to the type of action contemplated in the event an armed attack should occur. This problem was raised with Ambassador Dulles during the course of the hearings. He replied that each country would have to decide that question—

in the light of the fact that there is recognition that it is a common danger, and that each will act in accordance with its constitutional processes to meet that danger.

There is, of course, a whole range of defensive measures which might be appropriate depending upon the circumstances. Just what might be done is something that will no doubt be considered by the Council that is to be set up under article VII of the treaty, or by the consultations that would normally take place under article III. In any event, any action in which the United States joined would have to be taken in accordance with our constitutional processes.

Article V defines, in a geographic sense, the area within which the treaty is to operate. By the terms of that article an armed attack on any of the parties includes not only an attack upon the metropolitan territory of the party but also on the Pacific island territories under its jurisdiction or on its armed forces, public vessels, or aircraft in the Pacific. So far as United States interests are concerned, this is an exceptionally broad provision. It would mean, for example, that Australia and New Zealand would be obligated to take appropriate action under article IV if an armed attack were launched against our occupation forces in Japan. Likewise, an armed attack against the former Japanese mandated islands which we are now administering—the Marshalls, the Marianas, and the Carolines—or an attack upon the Ryukyu or Bonin Islands over which we will be exercising jurisdiction under the Japanese Peace Treaty, would be considered an armed attack against the United States and would bring the security treaty into play.

It is not contemplated that any elaborate international machinery will be set up as a result of the treaty. Under article VII the parties

establish a Council, which consists of their Foreign Ministers or their deputies, to consider problems relating to the implementation of the treaty. While the Council will be organized so as to be able to meet at any time, it is not expected that the Council will find it necessary to convene often unless an emergency should arise.

The committee paid particular attention to the language of article VIII. The words "Pending the development of a more comprehensive system of regional security in the Pacific area" leave the implication that the treaty with Australia and New Zealand, and the other security treaties, are but the first step in the creation of a more effective security system for the Pacific. Representatives of the executive branch expressed the conviction that there should be a further evolution in that area although there are at present no plans for the negotiation of a regional arrangement in the Pacific comparable to the Atlantic Pact or the Rio Treaty. At the moment it seems impractical to go beyond what is now being proposed, particularly in view of the reluctance of certain states to enter into a regional security pact.

According to the terms of article X the treaty is to remain in force over an indefinite period. Any party may cease to be a member of the Council, however, 1 year after notice of withdrawal has been given. Since the threat to peace in the Pacific is of indefinite duration, the provision seems to be a logical one.

The committee agrees that the treaty will serve the national interests of the United States by making clear our mutual interests and our sense of common destiny with our allies in the Pacific. It seems highly desirable that our friends as well as our enemies understand that our concern over such matters as the North Atlantic Pact and the Japanese Peace Treaty in no way implies any lack of interest on our part in working together for peace with such valuable allies as New Zealand, Australia, and the Philippines.

E. SECURITY TREATY BETWEEN THE UNITED STATES AND THE PHILIPPINES

The deep interest of the United States in the welfare and security of the Philippines dates back to the Spanish-American War. Following World War II, relations between the two Governments were formally established in a series of important agreements. These included the Treaty of General Relations, signed on July 4, 1946, which recognized the independence of the Philippines, and the two agreements of 1947 relating to military assistance and the use of certain bases in the islands.

On April 18, 1951, President Truman, in a public statement, underlined the importance which the United States attaches to the security of the Philippines:

The whole world knows—
stated the President—

that the United States recognizes that an armed attack on the Philippines would be looked upon by the United States as dangerous to its own peace and safety and that it would act accordingly.

This is the principle which is incorporated in the security treaty between the two Governments and which is now before the Senate. In

a sense it can be said that the treaty merely formalizes a relationship that has been in existence for some time.

The committee agrees that, in view of the importance of the Republic of the Philippines in the Far East and its new status as a sovereign state, it would seem highly desirable to include that country on a basis of complete equality in any collective arrangements for peace and security in that area. That is why, during the negotiation of the Japanese Peace Treaty, members of both the Senate Foreign Relations Committee and the House Foreign Affairs Committee agreed with the executive branch that a mutual security pact be concluded with the Philippine Government. On the Senate side, consultations relating to this matter took place between Ambassador Dulles and the Far Eastern Subcommittee of the Foreign Relations Committee.

It will be noted that, in general, the provisions of the treaty with the Philippines follow very closely the terms of the security pact with Australia and New Zealand. Since that agreement has been outlined in section 25 above, it will not be necessary to repeat those comments here. Suffice it to say the two parties agree to settle their disputes by peaceful means (art. I), to develop their capacity to resist armed attack (art. II), to consult if their territorial integrity, political independence or security is threatened in the Pacific (art. III), and to take appropriate action in the event an armed attack is launched against them (art. IV). The treaty does not formally establish a council as does the pact with Australia and New Zealand, although adequate provision is made for consultation between the Foreign Ministers or their deputies.

Article VIII provides that the treaty shall remain in force indefinitely. Either party, however, may terminate it following a 1 year's notice of its intention to do so.

CONCLUSIONS

In various sections of this report the surrender terms of the Potsdam Conference were alluded to. The Potsdam proclamation of July 26, 1945, which ratified earlier wartime conferences, called for—

- (1) The elimination of irresponsible militarism from Japan;
- (2) The destruction of Japan's war-making power to be implemented by the occupation;
- (3) The limitation of Japanese sovereignty to the four home islands of Honshu, Hokkaido, Kyushu, and Shikoku;
- (4) The complete disarming of Japanese military forces;
- (5) The meting out of stern justice to the war criminals; and
- (6) The establishment of freedom of expression, and other democratic institutions in Japan.

The committee believes that in general these objectives have been fulfilled. Further occupation of Japan would serve no useful purpose and might easily be misconstrued as United States imperialism. Since the end of hostilities it has been the view of the United States Government that the occupation of Japan should be ended and our task as victorious occupiers completed at the earliest practicable time.

The committee is fully aware that any action in this area involves risks. The Soviet Union and Communist China have made clear their objection and vigorous opposition to the pacts. It is, of course, problematical if the support of these two countries for the treaties

would have diminished in any way the danger of aggression to Japan. The facts, however, are that Japan has no effective defense force with which to oppose aggression and must depend, for the present at least, upon the United States and the United Nations for protection. Since Japan's neighbors on the continent of Asia are branded aggressors, who pose a real menace for Japan, they also pose the possibility of involvement of United States troops in Japanese defense. It is also important to add to these risks the danger to Japan from indirect aggression growing out of the newness of her democratic institutions, which makes them more vulnerable than if they were mature. Finally there are many problems which Japan must iron out before she can attain security and stability, not the least of which are her difficult trade adjustments in the Far East.

But the risks would not be avoided by postponing peace. Indeed, such inaction would probably bring new and much greater risks. Positive action for peace is called for by the following considerations: The community of free nations needs Japan, which can be a strong force for peace and stability in the Far East. Conversely, Japan needs the free nations, especially as a bulwark against its ancient enemy, Russia. If Japan is to develop its resources and its productive capacity, and take care of its people, it will need the independence, peace, and freedom contemplated in these treaties. If the free world is to maintain faith with itself, it needs to recognize Japan's freedom. Finally, these treaties constitute an important contribution toward clarifying the position of the United States in the Pacific. They are logical and desirable steps in liquidating the old war and in strengthening the fabric of peace in the Far East against the danger of a new war.

For these reasons the Committee on Foreign Relations strongly urges the Senate to give its advice and consent to ratification of the four treaties.

APPENDICES

Because the Japanese Peace Treaty deals with several matters considered and acted upon at Cairo, Yalta, and Potsdam by the heads of the major Allied governments, the pertinent parts of these agreements relating to the Far East and Japan are reproduced below.

APPENDIX I

THE CAIRO CONFERENCE, NOVEMBER 22-26, 1943

STATEMENT BY PRESIDENT ROOSEVELT, GENERALISSIMO CHIANG KAI-SHEK, AND PRIME MINISTER CHURCHILL, DECEMBER 1, 1943

The several military missions have agreed upon future military operations against Japan. The Three Great Allies expressed their resolve to bring unrelenting pressure against their brutal enemies by sea, land, and air. This pressure is already rising.

The Three Great Allies are fighting this war to restrain and punish the aggression of Japan. They covet no gain for themselves and have no thought of territorial expansion. It is their purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, shall be restored to the Republic of China. Japan will also be expelled from all other territories which she has taken by violence and greed. The aforesaid three great powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent.

With these objects in view the three Allies, in harmony with those of the United Nations at war with Japan, will continue to persevere in the serious and prolonged operations necessary to procure the unconditional surrender of Japan.

APPENDIX II

THE YALTA CONFERENCE: FEBRUARY 4-11, 1945

AGREEMENT REGARDING JAPAN

The leaders of the three Great Powers—the Soviet Union, the United States of America and Great Britain—have agreed that in two or three months after Germany has surrendered and the war in Europe has terminated the Soviet Union shall enter into the war against Japan on the side of the Allies on condition that:

1. The status quo in Outer-Mongolia (The Mongolian People's Republic) shall be preserved;
2. The former rights of Russia violated by the treacherous attack of Japan in 1904 shall be restored, viz:
 - (a) the southern part of Sakhalin as well as all the islands adjacent to it shall be returned to the Soviet Union,
 - (b) the commercial port of Dairen shall be internationalized, the pre-eminent interests of the Soviet Union in this port being safeguarded and the lease of Port Arthur as a naval base of the U. S. S. R. restored,
 - (c) the Chinese-Eastern Railroad and the South-Manchurian Railroad which provides an outlet to Dairen shall be jointly operated by the establishment of a joint Soviet-Chinese Company it being understood

that the preeminent interests of the Soviet Union shall be safeguarded and that China shall retain full sovereignty in Manchuria;
3. The Kuril islands shall be handed over to the Soviet Union.

It is understood, that the agreement concerning Outer-Mongolia and the ports and railroads referred to above will require concurrence of Generalissimo Chiang Kai-Shek. The President will take measures in order to obtain this concurrence on advice from Marshal Stalin.

The Heads of the three Great Powers have agreed that these claims of the Soviet Union shall be unquestionably fulfilled after Japan has been defeated.

For its part the Soviet Union expresses its readiness to conclude with the National Government of China a pact of friendship and alliance between the U. S. S. R. and China in order to render assistance to China with its armed forces for the purpose of liberating China from the Japanese yoke.

JOSEPH V. STALIN
FRANKLIN D. ROOSEVELT
WINSTON S. CHURCHILL

FEBRUARY 11, 1945
[Made public, March 24, 1947.]

APPENDIX III

THE POTSDAM CONFERENCE: JULY 17-AUGUST 2, 1945

PROCLAMATION DEFINING TERMS FOR JAPANESE SURRENDER, JULY 26, 1945

(1) We—The President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain—representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

(2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceases to resist.

(3) The result of the futile and senseless German resistance to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which, when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the method of life of the whole German people. The full application of our military power, backed by our resolve, will mean the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland.

(4) The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.

(5) Following are our terms. We will not deviate from them. There are no alternatives. We shall brook no delay.

(6) There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world.

(7) Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

(8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

(9) The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.

(10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners. The Japanese Government

shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights shall be established.

(11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to re-arm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

(12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

(13) We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter destruction.



